

RECEIVED
CENTRAL FAX CENTER

MAR 03 2009



BARRISTERS & SOLICITORS
PATENT AND TRADEMARK AGENTS

SUITE 201, 1007 FORT STREET
VICTORIA, BC V8V 3K5
TELEPHONE (250) 389-0387
TELEFAX (250) 389-2659

Our File No.: HMT01/3619/US

Date: 03-03-2009

TELEFAX MESSAGE TO:

USPTO - Central

USPTO - Central

TELEFAX NO: 15712738300

Number of pages transmitted including this

page: 7 page(s).

This message and any accompanying materials are:

☒ **X** sent by telefax only

☐ also being sent by mail

☐ also being sent by courier

IMPORTANT NOTICE:

This telefax message is directed in confidence solely to the person named above, and may not otherwise be distributed, copied or disclosed. The contents of this message may also be subject to solicitor-client privilege. All rights to that privilege are expressly claimed and not waived. **If you have received this message in error**, please telephone us immediately and return the received copy to us by mail. If you do not receive all the pages in satisfactory legibility, please telephone (250) 389-0387. This message is sent to you by **Laura Duckett** of our firm.

MAR 03 2009

HMT01/3619/US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Office of Petitions

Patent Application

Serial No.: **10/600,028**

Filing Date: 23 June 2003

Title: **PROTOCOL FOR AIDS PREVENTION AND TREATMENT BY
NUTRITIONAL METHODS**

Inventor: **Harold Douglas Foster**

Examiner: **Not known**

Art Unit: **1642**

To: **The Commissioner for Patents
United States Patent and Trademark Office
Mail Stop Petitions
P.O. Box 1450
Alexandria, VA 22313-1450**

3 March 2009

Attention: **Sherry D. Brinkley**

Dear Sir:

**SECOND RENEWED PETITION
TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM
UNDER 35 U.S.C. 119(e) FOR THE BENEFIT OF A
PRIOR-FILED PROVISIONAL APPLICATION**

This Second Renewed Petition is in response to the Decision on Petition mailed 30 January 2009. This Second Renewed Petition substantially repeats the content

- Page 1 of 3 -

of the Petition filed 6 May 2008 and the First Renewed Petition filed 21 October 2008, but deletes from the text of the amendment a purported incorporation by reference of the provisional application from which this application claims priority. The incorporation by reference was not in the original text of the amendment submitted in the 6 May Petition and was added in the 21 October First Petition by mistake.

The applicant respectfully requests the acceptance of an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of prior-filed Provisional Application No. 60/390,509, filed 24 June 2002.

Pursuant to the requirements of 37 CFR 1.78(a)(6):

1. Please enter the amendment as set out in the Preliminary Amendment enclosed herewith.
2. Payment instructions for the surcharge set forth in 37 CFR 1.17(t) were enclosed with the original Petition filed 6 May 2008.
3. The entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the filing of this claim was unintentional. Due to budgetary constraints, the applicant/inventor prepared and filed Provisional Application No. 60/390,509 and the current application, without the assistance of a patent agent or other qualified professional. The applicant/inventor filed the current application within one year of the provisional application on the understanding that this was all that was required to obtain the benefit of the filing date of the provisional application for the current application. The applicant/inventor did not realize that it was necessary to explicitly claim the benefit of the provisional application and the applicant/inventor understood that the current application had the benefit of the provisional application.

- Page 2 of 3 -

The applicant/inventor consulted our firm on 25 March 2008 to obtain our assistance in responding to a Notice to File Missing Parts on the current application. In reviewing the applicant/inventor's records we became aware that the current application did not contain a claim to the benefit of the provisional application. We notified the applicant/inventor of this on 5 April 2008 and, on 7 April 2008, we were instructed to submit this petition. The slight lag between our receipt of those instructions and the filing of the original Petition was not the fault of the applicant/inventor and resulted solely from the press of work in our office. Similarly, any delay between our receipt of the Petitions Examiner's Decision on the original Petition and the filing of the First Renewed Petition, and the Decision on the First Renewed Petition and the filing of this Second Renewed Petition, is not the fault of the applicant/inventor and again resulted solely from the press of work in our office.

The applicant/inventor respectfully requests that this petition be granted.

Respectfully submitted,

By:



Robert H. Barrigar

Registration No.: 26,125

MDC:lld

Victoria, British Columbia

Y:\HMT01\3819 US\USPTO\2nd Rnw'd Pet re Unintr'd Delay 090303.wpd

- Page 3 of 3 -